

every such Woman being sole, or married after the Death of her first Husband, to give, sell, or make discontinuance of any such Lands for term of her Life only, after the course and use of the Common Law, before the making of this present Act.

Hob. 299. 1 Leon. 261. 2 Leon. 168. 2 And. 44. 2 Roll. 417. 3 Co. 58. 5 Co. 80. Bro. Judg. 148, 153. Co. Litt. 326 b., 365, 366, 381. Cro. El. 2, 4, 24, 131, 513, 514. Cro. Jac. 174, 624. 3 Mod. 33. 4 Mod. 85. Alienation by the Wife of the Inheritance of her deceased Husband, shall be void. Upon the \*Recovery or Alienation of the Woman, he in the Reversion may enter. 2 And. 31. 1 Co. 102. 3 Co. 50, 58. 4 Co. 3. Dyer, 111, 146, 248, 340, 354, 362. Hob. 341. A Woman covert bound but during her Husband's life, 2 Bulstr. 42. A Woman sole aliening, or suffering a Recovery. A Proviso for a Recovery had before the time of the Statute. A Woman doth discontinue, or suffer Recovery with the Heir's Consent. A Woman may alien her Land for the term of her Life only. 6 Ed. 1., Stat. 1, c. 7. 32 H. 8, c. 36. **267**

The parts relating to recoveries are not included in our laws, but I have printed the Statute entire. See note to 6 E. 1, Stat. 1, c. 7.

This Statute included conveyances of the widow by fine, and was confirmed by 32 H. 8, c. 36, s. 2, which was mainly intended to protect the estate of the issue in tail, so that when the husband or his ancestors had settled lands on his wife in tail, or in any other manner by which his issue was to be benefitted, it was not to be in the wife's power by any conveyance to prevent the issue from receiving that benefit.

Before the passage of this Act, if a widow had aliened with warranty in fee, the warranty descending upon him in the reversion would have bound him, unless he were under age both at the time of the alienation and of the descent of the warranty; for such a warranty was collateral, and the Statute of Gloucester determined nothing as to collateral warranties, which were not abolished until the Statute 4 Ann. c. 16. The Statute applies to all alienations by the widow, and therefore if a jointress in tail aliened and left assets, still the heir might enter, unlike the case of tenant by the curtesy, who under the Statute of Gloucester might alien with warranty if he left assets. And if a woman having only a title of dower enters before she is endowed and levies a fine, she is within the Act, *Barker v. Taylor*, 2 Leon. 168, 3 Leon. 78, cited by *Rhodes J.* to have been adjudged.

In the case of *Wimbishe v. Tailbois*, Plowd. 38, the Statute was construed to reach the case of a widow, who, after her husband's death, had by covin and on a false title suffered a recovery to be had against her of lands, which before the Statute of Uses had been conveyed by her husband to the use of himself and wife in special tail. The husband died after the passage of the Statute of Uses, but it was agreed that the case was to be considered as if that Statute had not passed. It was objected that the widow did not hold jointly with her husband any lands or tenements, but was only seized of an use in tail. But the Chief Justice, after speaking of the